

TOWN of HINGHAM
BOARD OF HEALTH
Board of Health Public Meeting

January 23, 2017

A posted public hearing of the Town of Hingham, Board of Health (the Board) was held in the Central South Meeting Room, 210 Central St., Hingham, MA.

The meeting was called to order by Mr. White at 7:00pm.

Members Present:

Stephan White, Chairman
Peter Bickford, Member
Kirk Shilts, D.C., Member

Staff Present:

Bruce Capman, R.S., Executive Health Officer
Elizabeth Nee, Health Agent

Hingham Town Officials Present:

John Coughlin, Esq., Town Counsel
Captain Chris DiNapoli, Fire Department

Agenda:

The agenda for the meeting was established as posted.

Minutes:

The Board reviewed the draft minutes from the November 15, 2016 public meeting.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to approve the public meeting minutes of November 15, 2016 as amended.

The Board reviewed the draft minutes from the November 28, 2016 public meeting.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to approve the public meeting minutes of November 28, 2016 as drafted.

Hingham Recycling and Dumpster Regulations:

Proposed Amendment

Elizabeth Nee, Health Agent

Ms. Nee is recommending that Section VI (C) of the town's Recycling and Dumpster Regulation be eliminated from said regulations adopted on March 10, 2015. This section addresses required quarterly reports from recycling haulers on recyclables per type and gross weight collected. She explained the work needed to get haulers to comply include numerous letters, phone calls and fines. For these efforts, only about 6 of the 24 haulers respond. She also stated that she has never had full compliance in the six quarters since overseeing compliance to this regulation. She said what information she did receive would be logged onto a spreadsheet; but this information was never requested by anyone within town government or the state. She believes the data appears irrelevant and is not worth the effort to collect it.

- Dr. Shilts said the regulation could be amended to allow waivers from the reporting requirement, but eliminating unneeded requirements is always better. He said this also comports to Gov. Baker's 2015 executive order.
- Atty. Coughlin was asked for advise as to whether eliminating a regulation requirement, as opposed to establishing a new one, would require a full public hearing. Atty. Coughlin stated that it would be in the best interest to follow the familiar procedure in amending a regulation. He said the scope of the hearing could be limited to the particular section.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to place on the next meeting's agenda for public discussion a proposal to eliminate Section 6(C) from the Town's Recycling and Dumpster Regulation.

Dr. Shilts excused himself from the meeting at 7:30pm to attend a different meeting; he returned to the meeting approximately 15-minutes later.

Public Hearing Request:
Thomas Patch, 9 Ship Street

Mr. Thomas Patch, legal executor to the 9 Ship Street property, submitted a written petition for a hearing before the Board regarding an October 6, 2016 housing inspection order, reissued on November 1st, and updated on December 27, 2016. Mr. Patch informed the Board that he is electronically recording the meeting. Legal documents with a cover date of January 9, 2017 and a correspondence from Mr. Patch dated January 23, 2017 were provided to the Board.

- Mr. White acknowledged the agenda item and asked Mr. Patch to explain his request to meet with the Board.
- Mr. Patch said that the order sent by Mr. Capman on December 27, 2016 is unlawful and violates the provisions of the Massachusetts State Sanitary Code and fails to comply with the provisions of state regulations 105 C.M.R. 832(5) and 105 C.M.R. 410.851.
- Mr. Patch requests that the Board withdraw its order.
- Mr. White asked Atty. Coughlin to opine on Mr. Patch's request. Atty. Coughlin advises the Board to decide and/or make sure the December 27, 2016 letter supersedes the previous written orders of October 6th and November 1st, 2016, and decide whether to sustain, modify or withdraw the order of December 27, 2016.
- The Board reviewed the housing inspection orders with Mr. Capman and what progress had been made to date.
- Mr. Capman discussed his December 27th letter noting that violations listed as items #1, #2, #3, #4 and #7 appeared during inspection to have been corrected and now in compliance.
- Items #5 and #6 are more structurally-related, and will be followed-up by the town's Building Inspector.
- Item #8 addresses the removal of garbage and rubbish from the property. The Board discussed the health and safety aspect of this item - and the need for Mr. Patch to properly comply with the order. Mr. Bickford offered to attend the re-inspection with Mr. Capman. A re-inspection date of January 31, 2017 was selected.
- Mr. White asked Mr. Patch if he will be accommodating and comply with the re-inspection on January 31, 2017. Mr. Patch agreed as long as Mr. Bickford attends the inspection with Mr. Capman.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to sustain items #1, #2, #3,#4 and #7 of the December 27, 2016 housing inspection order where these items have been determined to be corrected and resolved in accordance with the order; and to modify items #5 and #6 referring those items to the Town's Building Inspector and applicable inspectors for inspection and enforcement at their discretion; and to authorize Mr. Capman with Mr. Bickford to conduct a follow-up inspection of item # 8 with the property's legal executor to resolve any issues at the property covered under the State Sanitary Code; and furthermore, the Board affirms that the order dated December 27, 2106 supersedes prior housing inspection orders dated October 6, 2016 and November 1, 2016 regarding the property at 9 Ship St., Hingham, MA.

Body Art Establishment Regulations, Establishment License Application & Practitioner Permit:
Claire's, 94 Derby Street

Spokespersons: Robert Kappeli, regional manager; Nicole Wikowski district manager and Justyn Newberry, store manager

Representatives from Claire's came before the Board seeking: (1) to obtain an establishment license; (2) to obtain an employee practitioner permit; (3) a variance from the Body Art regulation sections 4(L) and 5(A) which provides that no person shall perform body adornment on another person under the age of 18 years; (4) a variance from section 4(D) which requires that each practitioner be 21-years of age or older and; (5) a variance from the regulation's definitions to allow practitioners to perform cartilage piercing.

- Mr. Capman said this Derby St. jewelry store (Claire's) was found to be performing illegal body piercings after investigating a 9/28/16 public complaint. An investigative report and accompanying photos were provided to the Board.
- Mr. Capman said piercing of the ear-lobe is exempt from the town's Body Art regulation - but this involved piercing of the ear cartilage which is not allowed. He said the regulation includes the requirement that an establishment performing body piercings must be licensed; and this store is unlicensed.
- Dr. Shilts asked "who is the owner of the Derby St." store and who is the "lead practitioner" as defined by regulation. Mr. Kappeli said Claire's is a nation jewelry store chain that specialize in earrings and ear piercings. He said the lead practitioner for the Hingham store is Mr. Newberry.
- Dr. Shilts said there is a Hingham Health Dept. Body Art Establishment application, and a Body Art Practitioner permit application which need to be properly completed.
- The Board reviewed the establishment's general liability insurance documentation, its blood borne pathogens training document and a release of liability /waiver of claim form, which were submitted by Claire's corporate legal department.
- A current certificate of completion for Justyn Newberry concerning his Red Cross blood borne pathogen training was also reviewed.
- Mr. Kappeli said Mr. Newberry turned twenty-one in December, so the practitioner-age variance is no longer being sought, but he said there could be other underage employees the establishment may bring forward. Dr. Shilts said step-one is to get a valid establishment license and have Mr. Newberry permitted as a practitioner before seeking additional regulatory relief. Dr. Shilts said he was surprised that a seemingly reputable national corporation would be ignorant to local Body Art regulations.
- The Board discussed delegating authority to Mr. Capman for permitting practitioners in Body Art establishments.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to grant a Body Art establishment license to Claire's at 94 Derby St. upon receipt of a completed application and payment of the applicable fees; and grant a variance from the Hingham Board of Health Regulations for Body Art Establishments to allow this establishment to conduct piercing of the cartilage of the ear; and delegate the granting of variances from Sections 4(C) and 16, regarding the minimum age of a Body Art practitioner, to the Executive Health Officer.

Furthermore, the applicable fees and license/permit expirations for Body Art establishments and practitioners will mirror those for the town's Body Work and Body Work Therapy establishments and practitioners, if not otherwise identified.

Sewage Disposal System Variance Request:
10 Fisher Road

Spokespersons: Terry and Colin McSweeney

Terry McSweeney, for the applicant, is proposing to upgrade the existing failed sewage disposal system at 12 Fisher Road and requesting divergences to state Title 5 and the Hingham Supplementary Septic regulations.

- Mr. McSweeney said the proposal includes installation of the Singulair advanced technology denitrification system.
- The proposal seems to represent minimal feasible compliance.

Thereafter, a Motion was made by Dr. Shilts and seconded by Mr. Bickford it was VOTED (unanimous); to grant divergences from Title 5 of the State Environmental Code Sections 15:405(1)(b), 15:405(1)(b), 15:104 & 15:405(1)(a); and variances from the Hingham Supplementary Rules Sections VI(9), VI(12)(a) & VI(7)(b); and conditional to the conditions outlined in Mr. Capman report dated January 23, 2017.

Adjournment:

The January 23, 2017 public meeting of the Hingham Board of Health adjourned at 8:55pm.
 Respectfully Submitted, Elizabeth Nee, Health Agent

